

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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DEMETRECE R. WELCH,  
#215959

Plaintiff,

v.

CLIFFORD W. TAYLOR,

Defendant.

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Case No. 1:07-cv-741

Hon. Richard Alan Enslen

**ORDER**

This matter is before the Court on Plaintiff Demetrece R. Welch Sr.'s *pro se* Motion for Leave to Amend Complaint. The Court reads *pro se* filings indulgently. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972). Federal Rule of Civil Procedure 15(a)(2) instructs the Court to “freely give leave when justice so requires.” Upon review of Plaintiff’s proposed Amended Complaint, the Court determines that Plaintiff’s Motion should be denied.

Were the Court to grant Plaintiff’s Motion, which largely seeks to add a facial challenge to Mich. Comp. Laws § 600.2963, it would cause undue delay to Defendant. First, discovery has ended. Further, Plaintiff has known since January 9, 2008 that his Complaint would not be construed as containing a facial challenge to Mich. Comp. Laws. § 600.2963. Thus, Plaintiff has prejudiced Defendant by his untimely request to amend. Moreover, the Court determines that Plaintiff’s amendments would be futile based on the decision in *Howard v. Whitbeck*, No. 5:02-cv-93 (W.D. Mich. Feb. 7, 2005), which rejected an identical facial challenge to Michigan’s filing fee statute. *See generally Jet, Inc. v. Sewage Aeration Sys.*, 165 F.3d 419, 425 (6th Cir. 1999) (citation omitted) (stating that motions to amend need not be granted if futile).

**THEREFORE, IT IS HEREBY ORDERED** that Plaintiff Demetrece R. Welch Sr.'s Motion for Leave to Amend Complaint (Dkt. No. 48) is **DENIED**.

DATED in Kalamazoo, MI:  
August 11, 2008

/s/ Richard Alan Enslen  
RICHARD ALAN ENSLEN  
SENIOR UNITED STATES DISTRICT JUDGE